

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RAYMOND B.,

Plaintiff,

v.

MARTIN O'MALLEY,

Commissioner of Social Security,

Defendant.

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1:22-cv-00393-JAW

**ORDER ACCEPTING THE RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

Raymond B. seeks judicial review of the Social Security Administration Commissioner's¹ final decision that determined he was not disabled and denied his application for supplemental security income. *Admin. R.*, Attach. 2, *Docs. Related to Admin. Process, Decision* at 17-40 (ECF No. 7). Pursuant to 28 U.S.C. § 636(b)(3) and District of Maine Local Rule 16.3(a)(2)(C), United States Magistrate Judge Karen Frink Wolf held a hearing on September 15, 2023. *Min. Entry* (ECF No. 23). The Magistrate Judge filed her Report and Recommended Decision with the Court on January 31, 2024, recommending that the Court affirm the Commissioner's decision. *Report and Recommended Dec.* (ECF No. 24). Plaintiff timely objected to the Recommended Decision on February 14, 2024. *Pl.'s Objs. to the R & R Entered on*

¹ Martin O'Malley became the Commissioner of the Social Security Administration on December 20, 2023. Pursuant to Federal Rule of Civil Procedure Rule 25(d), Martin O'Malley is substituted for his predecessor, former Acting Commissioner Kilolo Kijakazi, as the defendant in this suit. *See also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

Jan. 31, 2024 (ECF No. 25) (*Pl.’s Objs.*). The Commissioner responded on February 27, 2024. *Def.’s Resp. to Pl.’s Objs. to the Report and Recommended Dec.* (ECF No. 26) (*Def.’s Resp.*). Plaintiff replied on March 2, 2024. *Pl.’s Reply* (ECF No. 28).

After reviewing and considering the Recommended Decision, together with the entire record, the Court has made a de novo determination of all matters adjudicated by the Magistrate Judge. The Court concurs with the Magistrate Judge’s conclusions as set forth in her Recommended Decision and determines that no further proceeding is necessary.

It bears mentioning that there is a companion case to this matter: *Kenneth W. on behalf of Matthew W. v. Martin O’Malley*, 2:23-cv-00204-JDL. In his objections in this case, Raymond B. wrote that the Court “**should hold in abeyance its ruling on these Objections pending resolution of the already filed Objections in the case of Kenneth W. ex rel. Matthew W. v. O’Malley, 2:23-cv-00204-JDL (D. Me. Jan. 25 2024).**” *Pls.’ Objs.* at 2 (emphasis in original). The Commissioner agreed: “The Commissioner doesn’t oppose Plaintiff’s request that the Court hold its ruling in abeyance ‘pending resolution of the already filed Objections’ in *Kenneth W.*, No. 2:23-cv-204-JDL.” *Def.’s Resp.* at 1. Indeed, the parties provided Judge Levy with supplemental filings not provided to the Court in this case. *See Kenneth W. on behalf of Matthew W. v. Martin O’Malley*, 2:23-cv-00204-JDL, *Def.’s Sur-Reply Br. in Opp’n to Pl.’s Objs.* (ECF No. 27); *id.*, *Def.’s Am. Resp. to Pl.’s Objs. to the Report and Recommended Dec.* (ECF No. 28).

The Court has thus performed its de novo review with the benefit of Judge Levy's April 19, 2024 decision and without the benefit of the supplemental filings in the *Kenneth W.* case. In ruling, the Court adopts Judge Levy's conclusion:

In so concluding, I emphasize that (1) SSR 96-9p, 1996 WL 374185 (July 2, 1996) does not categorically require Administrative Law Judges to consider all post-hearing submissions related to vocational evidence, and (2) Administrative Law Judges may set and enforce reasonable deadlines for the submission of post-hearing evidence and briefs, including additional vocational evidence.

Id., *Order Accepting the Recommended Dec. of the Magistrate Judge* at 2 (ECF No. 29).

It is therefore **ORDERED** that the Recommended Decision (ECF No. 24) of the Magistrate Judge is hereby **ACCEPTED**, and the Commissioner's Decision, *Admin. R.*, Attach. 2, *Docs. Related to Admin. Process, Decision* at 17-40 (ECF No. 7) is **AFFIRMED**.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of April, 2024